

UNITED STATES DISTRICT COURT  
EASTERN DISTRICT OF MICHIGAN  
SOUTHERN DIVISION

TRENT GARDNER,

Petitioner,

v.

MARY BERGHUIS,

Respondent.

CASE NO. 2:12-CV-14138  
HONORABLE GEORGE CARAM STEEH  
UNITED STATES DISTRICT JUDGE

**OPINION AND ORDER DENYING THE MOTION FOR  
RECONSIDERATION [DKT. # 24], DENYING A CERTIFICATE OF  
APPEALABILITY ON THE MOTION FOR RECONSIDERATION,  
AND LEAVE TO APPEAL *IN FORMA PAUPERIS***

On May 18, 2016, the Court denied the petition for writ of habeas corpus that had been filed by petitioner pursuant to 28 U.S.C. § 2254, declined to issue a certificate of appealability, and denied petitioner leave to appeal *in forma pauperis*. *Gardner v. Berghuis*, No. 2:12-CV-14138, 2016 WL 2894490 (E.D. Mich. May 18, 2016).

Petitioner has filed a motion for reconsideration. For the reasons that follow, the motion for reconsideration is DENIED.

E.D. Mich. LR 7.1(h) governs motions for reconsideration. However, a motion for reconsideration which presents the same issues already ruled upon by the court, either expressly or by reasonable implication, will not be granted. *Ford Motor Co. v. Greatdomains.com, Inc.*, 177 F. Supp. 2d 628, 632 (E.D. Mich. 2001). A motion for reconsideration should be granted if the movant demonstrates a palpable defect by which the court and the parties have been misled and show that correcting the defect

will lead to a different disposition of the case. See *DirecTV, Inc. v. Karpinsky*, 274 F. Supp. 2d 918, 921 (E.D. Mich. 2003).

Petitioner's motion for reconsideration will be denied, because petitioner is merely presenting issues which were already ruled upon by this Court, either expressly or by reasonable implication, when the Court denied petitioner's habeas application and declined to issue a certificate of appealability or leave to appeal *in forma pauperis*. See *Hence v. Smith*, 49 F. Supp. 2d 547, 553 (E.D. Mich. 1999).

A certificate of appealability is required to appeal the denial of a motion for reconsideration in a habeas case. See e.g. *Amr v. U.S.*, 280 Fed. Appx. 480, 486 (6<sup>th</sup> Cir. 2008). This Court will deny petitioner a certificate of appealability, because jurists of reason would not find this Court's resolution of petitioner's motion for reconsideration to be debatable. The Court will deny petitioner leave to appeal *in forma pauperis* because any appeal would be frivolous. *Hence*, 49 F. Supp. 2d at 549.

**IT IS HEREBY ORDERED** that the motion for reconsideration [Dkt. # 24] is **DENIED**.

**IT IS FURTHER ORDERED** that a certificate of appealability regarding the motion for reconsideration and leave to appeal *in forma pauperis* are **DENIED**.

Dated: June 9, 2016

s/George Caram Steeh  
GEORGE CARAM STEEH  
UNITED STATES DISTRICT JUDGE

CERTIFICATE OF SERVICE

Copies of this Order were served upon attorneys of record on June 9, 2016, by electronic and/or ordinary mail and also on Trent Gardner #759967, Macomb Correctional Facility, 34625 26 Mile Road, New Haven, MI 48048.

s/Barbara Radke  
Deputy Clerk